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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 20070625

Application Number: 09/972,127
Filing Date: October 4, 2001
Appellant(s): Kumar et al.

Steven J. Laureanti
(Reg. No. 50,274)
For Appellant

EXAMINER'S ANSWER

This examiner's answer has been prepared in response to appellant's brief on appeal filed April 18, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(*i2 Technologies US, Inc.*)

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. (None.)

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(Claims 1-13 and 27-33 are pending, rejected, and appealed.)

(Claims 14-26 have been cancelled.)

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. (None.)

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal contained in the brief is correct:

I. Claims 1-13 and 27-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner et al. (US 5,758,327).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, official notice, and admitted prior art) relied upon in the rejection of claims under appeal:

US 5,758,327	Gardner et al.	5/1998

(9) Grounds of Rejection

I. Claims 1-13 and 27-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner et al. (US 5,758,327).

Gardner et al. disclose a computerized fulfillment system associated with a distributed supply chain, comprising: a database operable to store: at least one customer-specified rule

identifying a sourcing constraint associated with a customer; and at least one contract value associated with a current status of a contract involving the customer; and one or more processors collectively operable to: receive an available-to-promise (ATP) request comprising a plurality of request line-items each corresponding to a desired product; generate one or more component ATP requests using at least one rule in the database and based on the request line-items; communicate the component ATP requests to at least one supplier associated with the desired product, the supplier determined according to at least one customer-specified rule identifying the sourcing constraint; receive a plurality of component quotations from at least one supplier, each component quotation corresponding to a component ATP request and comprising product availability information for one or more corresponding desired products; and generate a quotation for communication using the product availability information and the contract value in the database.

Regarding claim 2, in the fulfillment system of Gardner et al., the one or more processors are further collectively operable to: update the current status of the contract using previous orders placed under the contract; and generate an updated contract value using the updated current status of the contract.

Regarding claim 3, in the fulfillment system of Gardner et al., the one or more processors are further collectively operable to: receive one or more attribute values from the customer, the attribute values associated with one or more attributes of the desired product; search a product catalog for one or more products having matching attribute values; and retrieve product information associated with at least one matching product from the catalog.

Regarding claim 4, in the fulfillment system of Gardner et al., at least one rule identifies one or more preferred suppliers associated with the customer; and the one or more processors are collectively operable to: communicate the component ATP requests to the preferred suppliers; determine if the preferred suppliers are able to supply a requested quantity of the desired product based on the component quotations; and communicate component ATP requests to additional suppliers if the preferred suppliers are unable to supply the requested quantity of the desired product.

Regarding claim 5, in the fulfillment system of Gardner et al., the database is further operable to store at least one second rule associated with one of the suppliers; at least one second rule identifies a validity period for component quotations supplied by the supplier; and the one or more processors are collectively operable to generate the component ATP requests and the quotation using the rule associated with the customer and the second rule associated with the supplier.

Regarding claim 6, in the fulfillment system of Gardner et al., the database is operable to store a plurality of rules; and the one or more processors are further collectively operable to select one or more of the rules for generating the component ATP requests based on contents of the ATP request.

Regarding claim 7, in the fulfillment system of Gardner et al., the one or more processors are further collectively operable to: identify a plurality of available optional components associated with the desired product; identify valid combinations of the optional components; and display the valid combinations of the optional components to the customer.

Regarding claim 8, in the fulfillment system of Gardner et al., the one or more processors are further collectively operable to generate a sourcing plan using the product availability information and at least one rule, the sourcing plan identifying one or more suppliers and a quantity of the desired product reserved from each identified supplier.

Regarding claim 9, in the fulfillment system of Gardner et al., the one or more processors are further collectively operable to iteratively generate a sourcing plan when a previous sourcing plan fails to satisfy the corresponding rules in the database.

Regarding claim 10, in the fulfillment system of Gardner et al., the contract value comprises a discount available to the customer from one or more of the suppliers.

Regarding claim 11, in the fulfillment system of Gardner et al., the database is further operable to store at least one second rule associated with a logistics provider; and the second rule identifies one or more delivery services provided by the logistics provider and available to the customer.

Regarding claim 12, in the fulfillment system of Gardner et al., the fulfillment system operates in an electronic marketplace; the one or more processors are collectively operable to receive at least one ATP request through a web-based user interface using Hypertext Transfer Protocol (HTTP); and the one or more processors are collectively operable to communicate the quotation using electronic mail.

Regarding claim 13, in the fulfillment system of Gardner et al., the one or more processors are collectively operable to receive at least one ATP request using at least one of Hypertext Transfer Protocol (HTTP), Simple Network Management Protocol (SNMP),

Extensible Markup Languages (XML), Electronic Data Interchange (EDI) Value Added Network (VAN), and electronic mail.

Regarding claims 30-33, in the fulfillment system of Gardner et al., the product availability information includes information representative of an inventory level.

(10) Response to Argument

I. Claims 1-13 and 27-33 are unpatentable under 35 U.S.C. 102(b) for being anticipated by Gardner et al. (US 5,758,327).

A. Regarding the argument that Gardner et al. fail to disclose using at least one customer-specified rule identifying a sourcing constraint in determining which supplier to use, the system of Gardner et al. indeed includes using at least one customer-specified rule identifying a sourcing constraint in determining which supplier to use, since the customer's use of the Gardner et al. system inherently limits/constrains the customer to purchasing only from the particular vendors/catalogs listed in the system (i.e., the vendors with whom the operator of the central system has an agreement/connection). Additionally, the Gardner et al. system provides for private catalog pricing (company-specific catalog with products, services, and/or pricing specific to that particular company, due to a particular company-vendor pricing/ sourcing agreement), which private catalog pricing inherently comprises a sourcing constraint,

since the items, services, and/or prices of the private catalog are only available to the company from the specific vendor with whom the customer has the private catalog agreement/contract.

B. Regarding the argument that Gardner et al. fail to disclose receiving quotes that comprise availability information and generating a quote that includes the availability information, the system of Gardner et al. indeed includes receiving quotes that comprise availability information and generating a quote that includes the availability information, since it is the centralized system that determines to which supplier(s) the system will send the purchase order(s), and one of the criteria/rules used by the centralized system is the availability information.

C. Regarding the argument that Gardner et al. fail to disclose contract values stored in the database, the system of Gardner et al. indeed includes contract values stored in the database. See, for example, column 5, lines 39-42.

D. Regarding the argument that Gardner et al. fail to disclose generating a quotation that includes the contract value, the system of Gardner et al. indeed includes generating a quotation that includes the contract value, since the pre-negotiated contract price/value is the price/value used in the quotation.

E. Regarding anticipation, note that a reference can *disclose the claimed subject matter either expressly or inherently*[1]. *A reference which is silent about a claimed invention's features is inherently anticipatory if the missing feature is necessarily present in that which is described in the reference*[2]. Moreover, *a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention*[3].

In addition, *it is well settled that a reference stands for all of the specific teachings thereof as well as the inferences one of ordinary skill in this art would have reasonably been expected to draw therefrom*[4], *presuming skill on the part of this person*[5].

Lastly, to the extent that applicant is arguing that the reference applied in the rejection fails to use the same *names* for certain elements as the *names* used by applicant, the argument is irrelevant, as it is noted that *the disclosure in a reference must show the claimed elements arranged in the same manner as in the claims, but need not be in the identical words as used in the claims in order to be anticipatory*[6].

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[1] *Constant v. Advanced Microwave Devices, Inc.*, 7 USPQ2d 1057 (Fed. Cir. 1988).

[2] *In re Robertson*, 49 USPQ2d 1999 (Fed. Cir. 1999), *In re Oelrich*, 212 USPQ 323 (CCPA 1981).

[3] *In re Graves*, 36 USPQ2d 1697 (Fed. Cir. 1995); *In re Sasse*, 207 USPQ 107 (CCPA 1980); *In re Samour*, 197 USPQ 1 (CCPA 1978).

[4] *In re Fritch*, 23 USPQ2d 1780, 1782-83 (Fed. Cir. 1992) and *In re Preda*, 159 USPQ 342 (CCPA 1968).

[5] *In re Sovish*, 226 USPQ 771, 774 (Fed. Cir. 1985).

[6] *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

(11) Related Proceeding(s) Appendix

No decision rendered by any court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For all of the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

6/25/07

Gerald J. O'Connor
Primary Examiner
Group Art Unit 3627

GJOC
June 25, 2007

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